

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

CHELSEA TORRES and JESSAMY TORRES, individually and as next friends and parents of A.T., a minor child, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

LINDA SEEMEYER, in her official capacity as Secretary of the State of Wisconsin Department of Health Services,

Defendant.

CASE NO. 3:15-cv-00288

HON. BARBARA B. CRABB

ORDER

IT IS ORDERED that

1. Defendant Linda Seemeyer and her officers, agents, employees, and attorneys, and all others who work in concert with Defendant in connection with registration of births and issuance of birth certificates, are hereby enjoined from enforcing Wis. Stat § 891.40(1) against members of the Plaintiff Class who completed a birth certificate worksheet prior to May 2, 2016, and are hereby directed to construe Wis. Stat § 891.40(1) in gender-neutral terms. In particular, the word “husband” in Wis. Stat § 891.40(1) should be construed to mean “spouse.”

2. The parties shall provide notice to members of the Plaintiff Class of the Court’s Opinion and of the steps described below for obtaining a corrected birth certificate (“Notice”) via: (1) the Department of Health Services’ (DHS) website; (2) Plaintiffs’ counsel Lambda Legal’s website; (3) the Wisconsin Bar’s Family Law listserv; (4) the national LGBT Bar’s Family Law listserv; (5) a request to the statewide LGBT organization, Fair Wisconsin, to share with their electronic mailing list; (6) a request to *Our Lives*, a magazine distributed statewide and

targeting LGBT readers, which also has a significant electronic mailing list and digital presence, to share with its readers; and (7) a request to the ACLU of Wisconsin to share with their electronic mailing list.

3. The content of the Notice shall be substantially the same as Exhibit A hereto, which is incorporated by reference as part of this Order.

4. DHS shall prepare a birth certificate listing both parents for each marital child and mail the corrected birth certificate to the parents no later than ten (10) days after receipt of a letter from a Plaintiff Class member containing the information provided for in the Notice, Exhibit A, hereto.

IT IS SO ORDERED.

September 27, 2016

Barbara B. Cault

United States District Court
Western District of Wisconsin

NOTICE REGARDING TWO-PARENT BIRTH CERTIFICATES
FOR MARRIED SAME-SEX COUPLES
WHO CONCEIVED BY ARTIFICIAL INSEMINATION

If you are a member of a same-sex couple who meets the following criteria (“the class”), you and your child are among the families entitled to a BIRTH CERTIFICATE that lists both spouses as parents:

1. you or your legally married spouse had a baby in Wisconsin between June 6, 2014 and May 2, 2016 and completed a birth certificate worksheet before May 2, 2016;
2. you and your spouse were married at the time of the birth;
3. your baby was gestationally carried by one of the spouses and was conceived using artificial insemination; and
4. you did not comply with the requirements of Wis. Stat. § 891.40(1).

If you satisfy the above criteria, you are among the families comprising same-sex spouses and their children who are entitled to a birth certificate that names both the birth mother and her spouse as parents of your child. You can read the relevant Court Opinion, Order, and Injunction, in *Torres v. Seemeyer*, W.D. Wis. Case No. 3:15-CV-288-bbc, here http://www.lambdalegal.org/in-court/legal-docs/torres_wi_20160914_opinion.

If you qualify and if the State Vital Records Office has not already provided your family with a birth certificate listing both spouses as parents, send a letter of request to the Wisconsin Department of Health Services at the address below, stating the following:

1. your name, your spouse’s name, and your physical mailing address;
2. the date of your marriage;
3. your child’s (or children’s) name(s) and date(s) of birth; and
4. a statement that your child (or children) was (were) conceived using artificial insemination or other assisted reproductive technology and that you did not follow the requirements of Wis. Stat. § 891.40(1).

Send this letter to the following address:

Department of Health Services
1 West Wilson Street
Madison, WI 53703

You should receive a corrected, two-parent birth certificate within ten days of the Department’s receipt of your request. If you do not, you may contact the lawyers representing the class, as follows:

Kyle A. Palazzolo
Lambda Legal Defense
and Education Fund, Inc.
105 W. Adams, Ste. 2600
Chicago, Illinois 60603
kpalazzolo@lambdalegal.org

Tamara Packard
Pines Bach LLP
122 W. Washington Ave
Madison, WI 53703
tpackard@pinesbach.com

Clearesia A. Lovell-Lepak
Lovell-Lepak Law Office
Post Office Box #44623
Madison, Wisconsin 53744
claire@clairelepk.com

or you may contact the lawyer representing the Department, as follows:

Maura FJ Whelan
Assistant Attorney General
Wisconsin Department of Justice
Post Office Box 7857
Madison, Wisconsin 53707-7857
whelanmf@doj.state.wi.us